IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 17452 of 2004

Between:

Smt.N.Bujji Bai, W/o Harilal,Occ:F.P.Shop dealer R/o

Kondabheemanapally Thanda,

Devarakonda Mandal, Nalgonda District

..... PETITIONER

AND

1 The Joint Collector, Nalgonda, Nalgonda District
2 The Revenue Divisional Officer, Miryalaguda, Miryalaguda

Division, Nalgonda District
3 The Mandal Revenue Officer, Devarakonda Mandal, Nalgonda District
4 Smt.Ch.Sridevi, W/o Chandrasekhar,
R/o Kondabheemanapally, Devarakonda Mandal, Nalgonda District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction, more particularly one in the nature of Writ of Mandamus declare the action of the R.D.O. (Respondent No.2) Miryalaguda in issuing the impugned
Proceedings in No.E2/4549/1998,dated23-09-2004 re-instatement of Respondent No.4 as F.P.Shop Dealer, Shop No.2 of Konda-Bheemanapally Village in Place of the petitioner and cancellation of the petitioner authorisation is illegal and arbitrary and consequently set-aside the proceedings No.E2/4549/1998, dated 23-09-2004 by the respondent No.2, and allow to continue the petitioner as dealer of Shop No.2 of the above village.

Counsel for the Petitioner:MR.JOGRAM TEJAVAT

Counsel for the Respondent Nos. 1 to 3: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.4 : None appeared.

The Court made the following :

O R D E R:

The petitioner questions the order of the second respondent-Revenue Divisional Officer, Miryalaguda, dated-23-09-2004 made in Proceedings No.E2/4549/1998.

By the said order, the second respondent ordered for reinstatement of 4th respondent-Smt.Chanda Sridevi, W/o Chandrasekhar as Fair Price Shop dealer Shop No.2 of Konda Bheemanapally village with immediate effect by setting aside cancellation of the earlier authorization. In the said order, the second respondent stated that the explanation submitted by the 4th respondent is convincible and he has drawn a presumption that the 4th respondent was under removal for a period of three years and therefore, the said period is sufficient punishment to the dealer and accordingly he has set aside the earlier order of removal.

The allegations against the 4th respondent are that her husband committed serious irregularities by diverting 200 quintals of rice in a black-market without distributing the same to the cardholders. Therefore, after conducting enquiry, the second respondent- Revenue Divisional Officer, Miryalaguda by his proceedings, dated-03-12-2001 cancelled the fair price shop dealership of 4th respondent of Konda Bheemanpally village. Aggrieved by the said order, the 4th respondent filed an appeal before the Joint Collector, Nalgonda in Case No.CS1/240/2002 and the said Joint Collector,Nalgonda by order dated-03-09-2002 declined to interfere with the orders passed by the Revenue Divisional Officer,Miryalaguda, but, however, the Revenue Divisional Officer was directed to issue a show cause notice by giving an opportunity to submit the explanation, conduct enquiry and to pass final orders.

As the Revenue Divisional Officer has not passed any final orders by

conducting a detailed enquiry into the matter, the 4th respondent filed W.P.No.16709 of 2004 which was disposed of by this Court on 17.09.2004 directing the Revenue Divisional Officer, Miryalaguda to complete the enquiry as directed by the Joint Collector vide his order dated-03-09-2003 and to pass appropriate orders after giving reasonable opportunity of being heard to the 4th respondent.

The question that arises for consideration is as to whether the Revenue Divisional Officer,Miryalaguda is justified in setting aside the earlier order and restoring the fair price shop dealership to the 4th respondent only on the ground that the explanation submitted by her is convincible as the removal period of three years was sufficient punishment.

I am of the opinion that the said reasoning is not justified and the Revenue Divisional Officer is bound to deal with the irregularities committed by the fair price shop dealer and if any irregularities were committed, necessary action has to be taken. Therefore, it is just and proper for the Revenue Divisional Officer, Miryalaguda to deal with the irregularities of the 4th respondent as to whether she or her husband have committed any irregularities in diverting 200 quintals of rice meant for cardholders. Therefore, the impugned order passed by the second respondent is unsustainable and liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned order passed by the second respondent is set aside and the matter is remitted back to the Revenue Divisional Officer, Miryalaguda-second respondent to deal with the irregularities committed by the 4th respondent after giving reasonable opportunity to her and to pass appropriate reasoned order within two months from the date of receipt of a copy of this order. No order as to costs.

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V. ESWARAIAH, J

Dated:02-03-2005

ccm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the Second day of March, Two thousand and Five.

ASSISTANT REGISTRAR

To

1 The Joint Collector, Nalgonda, Nalgonda District
2 The Revenue Divisional Officer, Miryalaguda, Miryalaguda Division,

Nalgonda District
3 The Mandal Revenue Officer, Devarakonda Mandal, Nalgonda District
4 Two CCs to the Government Pleader for Civil Supplies, HighCourt

Buildings, A.P. Hyderabad.

5 2 CD copies.

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